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10/621,127

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Theodore James Myers

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TOLER LAW GROUP  
8500 BLUFFSTONE COVE  
SUITE A201  
AUSTIN, TX 78759

EXAMINER

DOAN, PHUOC HUU

ART UNIT

PAPER NUMBER

2617

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/621,127

Applicant(s)

MYERS ET AL.

Examiner

PHUOC H. DOAN

Art Unit

2617

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-33 and 36-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-33 and 36-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 18, 31, and 38 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,618,594. Although the conflicting claims are not identical, they are not patentably distinct from each other because Independent claims 18, 31, and 38 of the present of application are broader in scope and thus encompass the subject

matter already claimed in allowed US Patent Application No: 09/399,402 (Subject to be published as US Patent No: 6,618,594 on 09/09/2004).

Specially claims 1, 4-5, 7, and 13 of the parent application recites a method, apparatus, and system. For example, claim recites “a method of defining user selected user zone associated with each of said user terminals comprising the step of: locating a user with the wireless communication system; defining an area by providing at least one user selected vector from the user terminal location, said at least one vector comprising a radius or distance vector; transmitting said vector information to said network controller, a user zone around said user terminal corresponding to said area wherein said user terminal can request communication service” which corresponding to claims 26, 34, and 41 of the present of application with more details claimed in the parent application that would render the broader claims of the present of application obvious. For example, claim recites “mobile terminal comprising: a GUI to receive user inputs to define a user zone, the user zone comprising a desired area of operation to subscribe to wireless service options; wherein the mobile terminal is adapted to transmit vector information related to the user zone to a network controller within said wireless communication system”.

***Response to Arguments***

3. Applicant's arguments with respect to claims 18-33, and 36-40 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-33, 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hose (US Patent No: 7,024,205) in view of Obradovich (US Pub No: 2006/0229778)

As to claim 18, 38, Hose discloses a mobile terminal for a wireless communication system comprising: a graphical user interface to receive user inputs to defined a user zone (col. 7, lines 10-25, col. 8, lines 1-20 “user inputs by key-pad on the mobile devices to defined a user zone, service area, subscriber’s current location”, the user zone comprising a desired are of operation to subscribe to wireless service options (col. 7 through col. 8, lines 18-19 “**a service request from the subscriber device indicating that a particular location base service is**

**desired**, includes a menu of local service providers **base on the service request**; *wherein the mobile terminal is adapted to transmit vector information related to the user zone to a network controller within said wireless communication system (col. 7, lines 60-67, col. 8, lines 1-44 “the information transmit through the wireless network controller MSC based on the subscriber’s current location to request the information service or service provider”). However, Hose does not disclose a graphical user interface (GUI) uses on the mobile device.*

*In the same field of endeavor, Obradovich discloses a graphical user interface (GUI) uses on the mobile device (See Fig. 7, and page 7, par [0081-0082] “HTML hypertext markup language”). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to a GUI on the mobile device as taught by Obradovich to the system of Hose in order to easy view on the display’s device.*

As to claim 19, Hose further discloses wherein the user zone comprises a desired area of operation of the mobile terminal for a temporary duration (col. 7 lines 15-67 “user requests the services option with a menu included service provider or services that based on a particular location service is desired”).

As to claim 20, Hose further discloses wherein said vector information comprises at least one radius or distant vector with respect to said mobile terminal location (col. 8, lines 12-15).

As to claim 21, Hose further discloses comprising a stylus or keypad input device for inputting said user inputs (col. 7, lines 14-16).

As to claim 22, Obradovich further discloses a mobile terminal according to claim 18 wherein said mobile terminal is adapted to receive location information related to a location of the mobile terminal wherein the graphical user interface is adapted to display a map in response to the location information (page 7, par. [0088]).

As to claim 23, Hose further discloses wherein said location information is received at said mobile terminal from said wireless communication system (col. 7, lines 5-20).

As to claim 24, DeLorme further discloses that comprising a GPS receiver (col. 2, lines 45-67) and wherein said location information is provided by said GPS receiver (col. 2, lines 45-67).

As to claim 25, Obradovich further discloses wherein the graphical user interface is operable to display a map including street and landmark information (page 8, par [0087-0088]).

As to claim 26, Hose further discloses wherein the user input is input by at least one of a track ball, touch screen, light pen, mouse, keypad or stylus (col. 7, lines 1-5).

As to claim 27, Hose further discloses wherein said mobile terminal is adapted to transmit a request for communication services within the user zone (col. 7 lines 45-55).

As to claim 28, 33, Obradovich further discloses wherein the user inputs define at least one user selected vector that represents a radius defining a circle about said mobile device (page 8, par [0086-0088]).

As to claim 29, Hose further discloses wherein said request includes a request for voice and data communication service (col. 9, lines 20-59 “an SMS to provide an audible or voice message”).

As to claim 30, Hose further discloses wherein said request for communication services is transmitted to a plurality of network controller each associated with a communication service provider (col. 21-59).

As to claim 31, Hose discloses a method of requesting communication services by a user within a user defined user zone (col. 7, lines 10-25, col. 8, lines 1-20 “ **user’s mobile devices to defined: a user zone, service area, subscriber’s current location, service provider**”, the method comprising: determining a



location of a mobile terminal of a user by receiving GPS data at said mobile terminal (col. 5, lines 40-53 “GPS transceiver embodied in the telephone 102”; defining a desired area with respect to the location in response to the user interaction transmitting information related to the desired area to at least one wireless communication service provider (col. 7 through col. 8, lines 60-65 “location based service is desire to request the wireless services provide, the subscriber and service provider may be charged a flat fee”); and receive from at least one wireless communication service provider wireless communication services within said desired area (col. 7 through col. 8, lines 18-19 “**a service request from the subscriber device indicating that a particular location base service is desired**”, includes a menu of local service providers **base on the service request**”). However, Hose does not disclose providing a display map related to the location for user interaction.

In the same field of endeavor, Obradovich discloses providing a display map related to the location for user interaction (page 8, par [0086-0088] “**the user may re-define the coverage of the displayed map by selecting a further option for a new radius from a mobile device location and based on the user selection that related to the location for user 703 interaction**”). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

provide a display map related to the location for user interaction as taught by bradovich to the system of Hose in order to identify the location or services.

As to claim 32, Hose further discloses comprising transmitting the mobile terminal a request for data transmission services to at least one wireless communication service provider (col. 7, lines 40-49).

As to claim 36, Hose further discloses wherein determining a location of said mobile terminal includes receiving location information at said mobile terminal from the at least one wireless communication service provider (lines 7-29-40).

As to claim 37, Obradovich further discloses wherein defining a desired area includes inputting at least one user selected vector on a display map (page 8, par [0088]).

As to claim 39, Obradovich further discloses wherein the location information comprises a map (See Fig. 7, page 8, par [0088]).

As to claim 40, Hose further discloses wherein the desired user zone is independent from a location of the communication device (col. 8, lines 1-15).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUOC H. DOAN whose telephone number is 571-272-7920. The examiner can normally be reached on 9:30 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VINCENT HARPER can be reached on 571-272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VINCENT P. HARPER/  
Supervisory Patent Examiner, Art Unit 2617

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/PHUOC DOAN/

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